

**STANDARD TERMINAL RAILROAD
of NEW JERSEY, INCORPORATED**P.O. Box 662
Rocky Hill, NJ 08853Telephone 609-623-0366
Telecopier 609-623-0192

November 26, 2002

Mr. Vernon A. Williams
Office of the Secretary
Surface Transportation Board
1925 K Street NW
Washington DC 20423ENTERED
Office of Proceedings

NOV 26 2002

Part of
Public RecordExpedited copy via Telecopier 202-565-9004
and via Federal ExpressRe: In the Matter of Morristown and Erie Railway Company
Authority to Operate the Somerset Terminal Railroad Corporation
Finance Docket No. FD-34267
Objections to Amended Verified Notice of Exemption

References: Request for Stay of Proceedings dated October 16, 2002 and Addendum thereto dated November 17, 2002

Dear Mr. Williams;

This letter is in follow-up to our Request for a Stay dated October 15, 2002 and the Addendum thereto dated November 16, 2002 in the above captioned matter. All exhibits attached to those documents are incorporated herein by reference and additional exhibits have been numbered as a continuation of those exhibits included in the original Request for a Stay and the Addendum.

1. The Notice contains substantive false or misleading information and the Exemption should therefor be considered to be void ab initio.
 - 1.1. The notice states that the Somerset is the current operator of the property.
 - 1.1.1. Any right or ability for Somerset to operate the property ended with the signing of the Settlement Agreement attached as Exhibit A and the execution of the Deeds attached as Exhibit B of the original Request for a stay.
 - 1.1.2. Somerset has in fact never actually operated on the property. The 536 car movements (268 placements) for Bridgewater Resources on the property covered by the Notice were handled by employees of Bridgewater Resources and Joseph Horner using a car mover owned by Bridgewater Resources. Likewise the 18 cars claimed by Eric Strohmeier in his certification of November 13, 2002, and attached Exhibit J to the Addendum, were handled by employees of Bridgewater Resources and Joseph Horner using a car mover owned by Bridgewater Resources. These cars were not consigned to Somerset but were in fact a constructive placement of cars consigned to Dameo Regional Distribution Center, a Norfolk Southern customer on the NJT Raritan Valley Line.
 - 1.1.3. A telephone voice mail received from Merideth Rodgers at the Newark, NJ Office of the Railroad Retirement Board in response to an inquiry on November 25, 2002 indicates that as of the end October 2002, the Somerset Terminal Railroad

Michael E. Allen

meallen@juno.com

**Standard Terminal Railroad of New Jersey
P.O. Box 662 Rocky Hill, NJ 08553**

Corporation had indicated to the RRB that it had no employees and was not in fact operating.

- 1.2. The Description of the Line is incorrect.
 - 1.2.1. The trackage does not extend to a junction with New Jersey Transit's commuter line. It in fact ends several hundred feet short of the New Jersey Transit property line.
 - 1.2.2. Somerset does not in fact own the bridge or the easement as is demonstrated by the Settlement Agreement attached as Exhibit A and the Deeds attached as Exhibit B in the original Request for a Stay.
- 1.3. The line does not connect with CSX Transportation nor interchange with Norfolk Southern.
 - 1.3.1. It connects with Norfolk Southern at the East End of the Royce Running track on the NS Lehigh Line. This connection is west of the NS/Conrail Shared Assets Area boundary.
 - 1.3.2. A connection with CSX Transportation would require the construction of either a diamond or an overpass to cross Norfolk Southern at Port Reading Junction (Manville), NJ
 - 1.3.3. Somerset has no commercial relationship with Norfolk Southern and is in fact viewed as a private intraplant service line. (E-mail from John Kraemer, Norfolk Southern Corp. dated May 17, 2001 attached as Exhibit K.)
2. The contingencies of the contract attached to the Notice as Exhibit B have not been met.
 - 2.1. Somerset does not possess the rights that it wishes to assign and as of the date of the contract filed as Exhibit B to the Amended Notice the matter had been removed to the Federal Court in accordance with the order attached as Exhibit F to the original Request for a Stay. A motion to remand to Chancery was heard on Monday, November 18, 2002 in the United States Bankruptcy Court for the District of New Jersey and this motion was denied. Standard further believes that when heard on the merits Somerset's complaint as originally brought before Chancery will be dismissed.
 - 2.2. Joseph Horner has not given written consent to assign the Land Use Agreement. The land use agreement is in fact void, as it has been superceded by the Settlement Agreement attached as Exhibit A to the original Request for a Stay.
3. Standard believes that the relief it seeks, i.e. the stay or denial of the instant Exemption, is the appropriate action for the Board to take in this matter as the Exemption is for the transfer of rights which are not possessed by the Transferor over an easement which the Transferor does not possess and a bridge which the transferor does not own or have the right to cross.
4. Standard believes that it will be significantly and irreparably harmed by failure to stay or deny the Exemption.
 - 4.1. The granting of the exemption in the instant circumstances will serve to significantly muddy the waters in the litigation initiated by Somerset to claim title the easement and the bridge by appearing to grant a Federal imprimatur to Somerset's claims.

Mr. Vernon Williams

11/16/02
Page 2 of 4

**Standard Terminal Railroad of New Jersey
P.O. Box 662 Rocky Hill, NJ 08553**

- 4.2. The presence or apparent presence of the M&E on Standard's property will interfere unreasonably in Standard's ability to either service its customers or to deal with Norfolk Southern or other carriers either on its own or on its customers behalf.
- 4.3. Allowing the instant exemption will constitute a taking of Standard's property along with that of Horner and will only result in further, otherwise unnecessary litigation.
5. Denial or Stay of the exemption will not cause harm to the other parties at interest.
 - 5.1. As Somerset has no title to the property, and therefor no rights to transfer, a denial or stay of the Exemption to transfer those rights has no effect.
 - 5.2. Somerset is not operating and has not operated the property and has not received any revenue from operation of the property. Any revenue which might be received from a future customer is purely speculative and since Somerset does not possess rights over the property it has no realistic expectation of such revenues
 - 5.3. The M&E has no claim on any rights on the disputed property other than those conveyed by Somerset. The M&E is not conducting any operations on the property or receiving any revenues. As Somerset has no rights to convey, the denial or stay of such a transfer has no effect on the M&E.
6. The public interest is not served by the granting of this Exemption.
 - 6.1. There is no burden placed on interstate commerce by the denial or stay of the Exemption.
 - 6.2. The granting of operating authority to a third party without the consent of or compensation to the property owner across whose property the operation will occur is in fact a taking.
 - 6.3. The granting of the Exemption in the face of a demonstration that the information provided to support that Exemption is substantively false or misleading creates an unreasonably low bar for the accuracy of information provided in the filing of Notices of Exemption and would open the door for abuse of the process.

Standard again reserves the right to file further objections to the granting of the Exemption, and again asks that all action on the instant Notice by the Morristown and Erie Railway be stayed pending action by the court; and further, that should the Board not stay its action in this matter, that the Exemption requested by the Morristown and Erie be denied due to the extensive misrepresentations in the instant Notice.

Sincerely;
Standard Terminal Railroad
of New Jersey, Inc.

Michael E. Allen
Chief Operating Officer

Enclosures: 1. See attached exhibit list
2. 10 copies of the letter and exhibits

Mr. Vernon Williams

11/16/02
Page 3 of 5

Standard Terminal Railroad of New Jersey
P.O. Box 662 Rocky Hill, NJ 08553

Copies of this letter and the exhibits have been served upon:

Richard Trenk, Esq. E-Mail and Regular Mail
Booker, Rabinowitz, Trenk, Lubetkin, Tully, DiPasquale, & Webster, PC
100 Executive Drive, Suite 100
West Orange, NJ 07062-8800
Counsel For Joseph Horner

John Fiorilla, Esq. Certified Mail
Watson, Stevens, Fiorilla, & Rutter, LLP
390 George Street, P.O. Box 1185
New Brunswick, NJ 08903
Counsel for the Morristown and Erie Railway

Somerset Terminal Railroad Corporation Certified Mail
568 Central Avenue
Bridgewater, NJ 08807

Jonathan M. Broder, Esq. Regular Mail
Conrail
2001 Market Street 16th Floor
Philadelphia, PA
19103

**Standard Terminal Railroad of New Jersey
P.O. Box 662 Rocky Hill, NJ 08553**

November 26, 2002

**Re: In the Matter of Morristown and Erie Railway Company
Authority to Operate the Somerset Terminal Railroad Corporation
Finance Docket No. FD-34267
Objections to Amended Verified Notice of Exemption**

Index to Exhibits

Exhibit K E-mail from John Kraemer, Norfolk Southern Corp. dated May 17, 2001

EXHIBIT K

From:7

5/18/01 12:53 PM

Subject: Fw: Follow up to conversation of

3/14/01 To: "Edward M. Fink" <PATEMF@aol.com>

CC: "Michael E. Allen" <wrallenassoc@earthlink.net>

Hello Ed,

Please review and advise. I feel we need to talk about this more. I think my attendance may be prudent.

Eric

----- Original Message -----

From: "Kraemer, John" <jmkraeme@nscorp.com>

To: "Eric Strohmeier" <e.strohmeier@worldnet.att.net>

Sent: Thursday, May 17, 2001 10:16 AM

Subject: RE: Follow up to conversation of 3/14/01

> Eric Strohmeier

> President

> Somerset Terminal RR

>

> Eric:

> Reference your request below, I received a call from Mike Allen. At the time I did not know his relationship with your company and I advised him that I would not discuss the NS relationship with the Somerset Terminal RR with him until I could confirm he had the authority to represent your RR. He asked me to meet with him at the Eastern Regional Meeting and I agreed to do so. We have scheduled to meet outside the sandhouse session on Monday, May 21, at 4 PM. If this is good for you we can all meet together.

>

> I hope you can understand our current position to view your operation as a private intra plant service that has no interline relationship either from an interchange or commercial basis with Norfolk Southern. I will be happy to discuss this with you further on Monday afternoon.

>

> John Kraemer

>

>

> -----Original Message-----

> From: Eric Strohmeier [mailto:e.strohmeier@worldnet.att.net]

> Sent: Wednesday, May 16, 2001 2:00 PM

> To: jmkraeme@nscorp.com

> Subject: Follow up to conversation of 3/14/01

>

>

> To: John Kraemer

>
> Mr. Kraemer,
>
> Per our phone conversation on 3/14/01, I will be forwarding to you some
> further information about our company. I wanted to follow up with this
> quick
> Email to you so that you may begin to set up the meeting we had discussed
> on
> the phone. Other than this Friday, the calendars of most of the key
> members
> of my organization are relatively clear between now and next week. I would
> like to set up a meeting(s) with your marketing, strategic planning, and
> possibly, your legal department personnel. We can meet either in Roanoke
> or
> Norfolk, which ever location is better for your staff. I hope this can be
> arranged as soon as possible.
>
> On a side note, I was wondering if you were planning on attending the
> ASLRRRA
> meeting in Providence next week? If so, I would like to set up a time when
> we might be able to meet. Please advise.
>
> In closing, I look forward to hearing from you in the not too distant future.
>
> Sincerely,
>
> Somerset Terminal Railroad
>
> Eric S. Strohmeyer
> President
>
>
>
>